

**IN THE CIRCUIT COURT OF WETZEL COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

**MARKWEST LIBERTY MIDSTREAM
& RESOURCES, L.L.C.,**
Plaintiff,

v.

**CIVIL ACTION NO. 16-C-82
JUDGE H. CHARLES CARL, III**

**J.F. ALLEN COMPANY;
AMEC FOSTER WHEELER
ENVIRONMENT & INFRASTRUCTURE, INC.; and
REDSTONE INTERNATIONAL, INC.;**
Defendants¹,

**BENCH TRIAL ORDER
DAY THIRTEEN: OCTOBER 7, 2020**

1. On the 7th day of October, 2020, this matter came on before the Court for a bench trial. By prior agreement of the parties, the Court conducted the bench trial in Hampshire County, West Virginia. The Plaintiff was present by its counsel Kevin L. Colosimo, Joseph M. Ward, and Jonathan G. Brill, and its in-house counsel Natalie Lien. Defendant J.F. Allen Company was present by its counsel Douglas C. LaSota and Nicole L. Carnevale and by its President, Greg Hadjis. Defendant Amec Foster Wheeler Environment & Infrastructure, Inc. was present by its counsel Vic L. McConnell and by its Lead Engineer Chris Ramsey. Defendant Redstone International, Inc. was present by its counsel Bruce E. Stanley and Michael A. Jacks, and by its President, Heath Kefover.

2. The Court inquired as to whether counsel had any objections to the Day Order from yesterday. Counsel had no objections and the Court then entered the Order.

3. Prior to starting testimony, the Court and counsel discussed the amount of time remaining for the trial. The Court advised that, subject to the Supreme Court approving the

¹ The remaining Defendants were dismissed, by agreement of the parties, prior to the bench trial.

appointment of a Senior Status Judge to cover the Court's regular court hearings, it has October 14, 15, and 16 available for continuation of the trial. Mr. Jacks indicated he has a trial scheduled next week in Upshur County; the Court requested that Mr. Jacks contact Judge Hall to ascertain whether the Upshur County trial could be continued, if necessary, given the need to conclude this case as soon as possible. Mr. Stanley indicated he has a scheduling conflict, but he is attempting to resolve the conflict with the aid of his law partner. Mr. McConnell indicated he will check regarding his expert's availability for next week. The remaining counsel are available on the dates the Court provided. The Court also advised that it is willing to conduct the trial this upcoming Saturday, if necessary.

4. Thereafter, Heath Kefover was re-called to the stand and his cross examination by Mr. McConnell continued.

5. Thereafter, Mr. Kefover was subject to re-direct examination by Mr. Stanley.

6. Thereafter, Mr. Kefover was subject to re-cross examination by Mr. Ward, Mr. LaSota, and Mr. McConnell.

7. Thereafter, Mr. Kefover was dismissed as a witness.

8. Thereafter, the Court recessed for a brief break.

9. After the break, Mr. Jacks called Dr. James G. Collin to the stand and he was duly sworn and subject to direct examination. Following qualification questions, the Court recognized Dr. Collin as an Expert in Geotechnical Engineering, Geotechnical Construction, and Geotechnical Design, without objection. Thereafter, Dr. Collin primarily presented narrative testimony, pursuant to agreement of counsel, with some questioning by Mr. Jacks. During the testimony, the Court granted Mr. Jacks' Motion for Section 11 The Conclusion of the Collin Report to be considered by the Court without Dr. Collin having to read it into the record.

10. Following direct examination, the Court recessed for a brief break.
11. After the break, Dr. Collin was subject to cross examination by Mr. Colosimo, by Mr. McConnell, and by Mr. LaSota.
12. Thereafter, Dr. Collin was subject to re-direct examination by Mr. Jacks and re-cross examination by Mr. Lasota.
13. Thereafter, Dr. Collin was dismissed as a witness and is not subject to recall.
14. Thereafter, the Court recessed for a lunch break.
15. Following the lunch break, Mr. Stanley called Dr. Donald A. Bruce to the stand and he was duly sworn and subject to direct examination. Following qualification questions, the Court recognized Dr. Bruce as an Expert in Geotechnical Engineering and Rock Anchor Design and Performance, without objection. Thereafter, Dr. Bruce primarily presented narrative testimony, pursuant to agreement of counsel, with some questioning by Mr. Stanley. During testimony, Mr. Stanley marked the following Exhibits, as they were not marked prior to trial: **Redstone 47** (Slide Show Presentation of Dr. Collin); and **Redstone 48** (Slide Show Presentation of Dr. Bruce).
16. After direct examination, the Court recessed for a brief break.
17. Following the break, Dr. Bruce was subject to cross examination by Mr. Colosimo, Mr. McConnell, and Mr. LaSota.
18. Thereafter, Dr. Bruce was subject to re-direct examination by Mr. Stanley.
19. Thereafter, Dr. Bruce was dismissed as a witness and is not subject to recall.
20. Thereafter, Mr. Stanley and Mr. Jacks advised their scheduling conflicts for next week have been resolved. Mr. McConnell advised his expert is available next week or he could

testify via Zoom. Counsel agreed to continue the trial to next Wednesday and Thursday, if necessary.

21. At 4:50 p.m. the proceedings adjourned for the day. The Court and counsel agreed to start testimony at 8:30 a.m. tomorrow.

It is **ORDERED**:

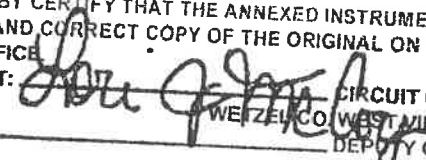
- ❖ The Circuit Clerk shall send this Order to all counsel of record.
- ❖ The Court notes the objections and exception of the parties to any adverse findings or rulings herein.

ENTERED this 8 day of October, 2020.



H. CHARLES CARL, III, JUDGE
BUSINESS COURT DIVISION



HEREBY CERTIFY THAT THE ANNEXED INSTRUMENT IS A
TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN
MY OFFICE
ATTEST:  CIRCUIT CLERK
WETZEL CO. WEST VIRGINIA
BY: _____ DEPUTY CLERK